

Testimony of Barry Cooper
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Eligibility and Scope of Financing
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Mr. Chairman, my name is Barry Cooper. I am the President and CEO of Farm Credit of Southern Colorado headquartered in Colorado Springs, Colorado. Our Association serves rural America by providing 2,800 agricultural loans to 1,500 borrowers in 29 counties in Southern Colorado. Our borrowers have approximately \$485 million dollars in loans outstanding. As you can tell from these numbers, we are a major player in agricultural credit in Southern Colorado. Despite a very challenging agricultural economic environment in recent years, our credit quality remains strong and our borrowers are working hard to find new efficiencies and sources of income. Some of them have chosen to vertically integrate, or grow their businesses by getting into value-added marketing or processing. Others pursue income from non-farm sources. In my view, all of them deserve to have the full resources of the Farm Credit System there to help them meet their credit needs.

My goal today is to address the problems associated with existing FCA Regulations as they pertain to the eligibility and scope of financing for our customers. I will also provide you with some real-life examples of how some of the restrictions in the current regulatory language unnecessarily and unfairly prevent deserving producers from receiving adequate and appropriate levels of financing. And, finally, I will provide you with my specific recommendations for correcting these regulatory problems.

Before I get into the specifics, let me say I fully agree with FCA's stated objective of reducing unnecessary regulatory constraints. As we work to continue to fulfill our mission of financing agriculture and rural America, we are committed to providing the best possible service to our customers. We understand the critical nature of our mission and that now, more than ever, agriculture and rural America need a full range of financing options that offer the flexibility needed in today's difficult and fast-moving business environment.

That said, the Farm Credit Act provides for more flexibility in financing our customers than is currently provided by Farm Credit Regulations. For example, Section 1.9 of the Statutes makes Farm Credit financing available to bona fide farmers. It was obviously the intent of Congress that the Farm Credit System be able to provide competitive financing for all of a farmer's needs. However, the regulations restrict the scope of financing for farmers who have investments or employment outside of production agriculture. Section 1.11 of the Statutes states that loans "may be made for any agricultural or aquatic purpose ***and other credit needs of the applicant***". **(Emphasis Added)**

The regulatory restriction in 613.3005 for more conservative extension of credit to "less than full-time farmers" was never appropriate. However, this restriction was certainly less damaging in the agriculture of the 1940's or even the 1970's, than it is now. But, unnecessary restrictions create serious problems in the highly integrated and rapidly evolving agriculture of today.

In Colorado and in many other states, agricultural areas are rapidly being transformed and the local economy is no longer agriculturally based. A lot of the farmers and ranchers in the mountain areas and along the Front Range of Colorado have split up their properties into smaller tracts. These tracts are subsequently purchased by part-time farmers who have different credit needs than traditional farmers and ranchers.

Most of these part-time farmers and ranchers will fit the definition of a Young, Beginning or Small (YBS) farmer and rancher, which is one of our target markets. Unfortunately because of regulatory restrictions in 613.3005 we are unable to offer them a complete credit package and therefore we are not as successful in serving the YBS market as we would like.

Let me give you an example of how these restrictions have affected a particular credit application.

We have a real estate loan with a part-time farmer who applied for an operating loan to start a small non-Ag business. He had formed a partnership with his neighbor who is also our customer and a full time farmer. We had previously approved a similar credit request for the full time farmer. Because of the regulatory restrictions outlined in 613.3005 we had to deny the credit request of the part-time farmer. He subsequently accused us of using discriminatory lending practices and "redlining". He did not understand why he should be treated differently than his neighbor and quite frankly it was difficult for us to justify the denial.

This is not an isolated case. It is only one example of many where the current FCA Regulation unnecessarily restricts a part-time farmer from obtaining a complete credit package. In addition, the FCA Regulations hampers what we can do for farmers and ranchers under our Young, Beginning and Small Farmer program.

In Colorado, and in many states around the country, areas that were once primarily agricultural are now developed and the farmers and ranchers located in these areas are finding it difficult to survive. A lot of them have had to develop non-farm income sources to support their Ag operations and consequently a lot of them can no longer be defined as full-time farmers under FCA Regulation 613.3005. Many of these farmers and ranchers have been Farm Credit customers for many years. Now because they are defined as part-time farmers we have to restrict their use of credit to their Ag operation and family needs.

Here is an example of a long time customer who has been adversely affected by the current regulatory language.

There is a rancher who has been a customer of ours for more than 25 years who owns and operates a ranch in the mountains of Colorado. His ranch is located close to a ski area and a lot of the area around his ranch has been developed into small tracts for housing. Our customer developed a plan to sell housing sites along the nonproductive ridgelines of his ranch. His comments were; "City folks are willing to pay a lot of money for land that I can't raise a dime on. I might as well let them raise kids and dogs on it and I'll make money off them." Five years ago we approved a loan package for him to buy equipment to build the roads for his housing sites.

Last year he applied for an expanded credit package to buy new construction equipment and to finance other expenses related to the development. He had the same Ag operation as in the past, however, now a majority of his income was non-farm, interest income from the lot sales that he had financed. We denied his loan request because he no longer qualified as a full time farmer under 613.3005 which restricts him to financing for Ag related purposes and family needs.

Needless to say he was very upset and stated that it appeared that 25 years of loyalty meant nothing to us. He explained that he wasn't getting out of agriculture he was just trying to save his ranch and the only way he can save it is to diversify.

This is a very common example and illustrates how an outdated regulation has a negative impact on legitimate agricultural producers.

Let me give you another example.

Ten years ago a customer who has a very large farming operation bought a tire business that provides on-farm tire services. He purchased the business so that he could obtain tires for his Ag operation at wholesale prices. Since he was a full time farmer we approved a small operating loan for the new business. His on-farm tire business was very successful and expanded rapidly into a multi-state business. Over a period of several years we provided additional credit packages that allowed the tire business to expand. Three years ago we had to tell him that he was no longer a full time farmer and therefore we could no longer provide credit for his tire business.

His tire business is almost exclusively Ag related and specializes in tires for sprinkler irrigation systems, tractors, farm implements and farm trucks. However, we can no longer finance the business because it doesn't fit the definition of a processing and marketing operation under FCA regulation 613.3010 and he no longer qualifies as a full time farmer under FCA Regulation 613.3005.

Again, this is not an isolated example. We have encountered this problem many times and continue to be puzzled as to why customers who are an integral part of agriculture should be arbitrarily restricted by a regulation that goes far beyond what was envisioned by the statute.

In today's modern agriculture, the traditional farmer, who may have had no other business interest beyond producing crops and/or livestock, is fast disappearing. Farmers today tend either to be small in scale, relying heavily on non-farm income to provide a reasonable standard of living for their families, large scale operators who are vertically integrated, or they combine their agricultural production with related agricultural processing or marketing services, or some combination of all of these business structures. Today's sophisticated operators spread their management over multiple enterprises. There is no reason that they should be penalized for this type of business structure. Having adequate credit for these types of operations further enhances the viability of rural America. These businesses create jobs, support the local infrastructure, and enhance the value of the local agricultural products.

I recommend that the regulations on scope and eligibility be adjusted to allow full consideration for financing all of a farmer's agricultural production, related agricultural enterprises, and his other credit needs. The distinction between "less than full-time" farmer and "part-time" farmers, which also is not statutory, should be eliminated. Farm Credit Associations should be allowed to finance all of a farmer's business.

The Farm Credit Act was designed by Congress to provide for an adequate and flexible flow of credit into rural America and to provide farmers and rural residents with a competitive source of both long-term and short-term funds.

Mr. Chairman, there is no reason to believe that bona fide farmers would not have many credit needs that are not purely agricultural in nature. Their children need college loans, their families need health insurance, they need to invest for retirement and they have the same kinds of needs that other business people have that may not always be directly tied to their agricultural production. Farmers also make non-agricultural investments to diversify their risks, they invest in their local cooperatives, and they invest in their rural communities. All of these activities are logical, desirable, and within the scope of eligibility provided for in the Statutes.

I know that FCA gets a lot of input from our competitors on eligibility and scope issues. Naturally, they would like to see less competition from the Farm Credit System. However, keep in mind that's exactly why the Farm Credit System was created, to be a borrower owned competitive source of credit. I can assure you that the farmers, ranchers, agri-business owners and rural homeowners, the people the Act is designed to serve, do want the System to provide maximum flexibility. These are the people to whom I report. They make up our Board of Directors. They are the ones who will provide the policy guidance to our institution to ensure that my staff and I are responsive to the marketplace.

I know that the farmers, ranchers and rural home owners who own the Farm Credit System are the best judge of what is best for them. They want flexible credit and access to quality rural housing. They also want the ability to expand their businesses and the flexibility to structure their operations to optimize their earnings potential and manage their financial risks. They want us to continue to be rural America's customer-owned partner.

Mr. Chairman, thank you for this opportunity to present my thoughts on the Eligibility and Scope Regulations and I would be happy to answer any questions you may have.